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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,562	09/30/2003	George W. Erhart	3655/0303 PUS1	3849
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MG-IP Law, PLLC				
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EXAMINER				
DEANE JR, WILLIAM J				
ART UNIT		PAPER NUMBER		
2614				
MAIL DATE		DELIVERY MODE		
11/25/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/674,562

Applicant(s)

ERHART ET AL.

Examiner

William J. Deane

Art Unit

2614

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 July 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 4-6, 8-11, 14, and 16-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 4-6, 8-11, 14 and 16-18 is/are allowed.
- 6) ☐ Claim(s) 19-26 is/are rejected.
- 7) ☐ Claim(s) 27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

Claims 1, 4 - 6, 8 - 11, 14 and 16 - 18 allowed.

Claim 27 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19 - 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,804,346 (Mewhinney) in view of U.S. Patent No. 5,854,832 (Dezonno) in view of the instant application.

With respect to claims 19 - 26 , Mewhinney teaches a call management system for interconnecting a customer and an agent, means for segmenting a call into a plurality of phases; (Abstract, Col. 4, lines 30 - 34), means for predicting a current phase of the call (Abstract, Col. 4, lines 30 - 34) and means for estimating time remaining in said call (Col. 2, lines 36 - 39, Col. 7, lines 24 - 36 and Col. 7, lines 49 -52). In addition, note that Mewhinney also teaches how

Art Unit: 2614

long an agent spends in a particular phase or stage in a conversation (See at least Col. 8, lines 32 - 35. What Mewhinney does not teach is the detecting of how long a caller speaks during a conversation. However, note that Dezonno teaches that such is old in the art (note the Abstract, Col. 4, lines 17 - 65, Col. 5, lines 9 - 38 and Fig. 3b). It would have been obvious to one of ordinary skill in the art to have incorporated a means to detect how long a caller speaks, in order to receive a better estimate of the time remaining in a call. Note that the evaluating can easily be obtained from report 320 or from a look at Fig. 3b. With respect to the limitation of a speech recognition device, applicants own application recognizes that speech analysis, done by a speech recognition device, is old in the art. In Mewhinney, it appears that a human agent sends a command to the predictive controller upon detect a word or understanding that a new phase is about to begin. A speech recognition device can do the same as is old in the art and shown by applicants own application (page 7, 1st paragraph). That is, the speech recognition device would detect what phase the communication is in by recognizing key words or the agent, instead of using a keyboard to send a command, could simply say "greeting phase", "discussion phase" or "closing phase" and the commands would be sent. It would have been obvious to one of ordinary skill in the art to substitute a human agent with a speech recognition device as this is the norm in the art. In addition, note Col. 9, lines 16 - 25, it appears that Mewhinney is indicating that in some embodiments an IVR can replace the human agent and perform the same actions.

Mewhinney and Dezonno teach the claimed limitations except for the speech analysis selected from the group consisting of automatic speech recognition, accent recognition, disfluency, speaking rate and verbosity. However, it is noted that the instant application declares that such speech analysis is well-known in the art (page 7, first paragraph). It would have been obvious to one of ordinary skill in the art to incorporate such speech analysis as disclosed in the instant application into the Mewhinney/Dezonno system, as such would only entail the substitution of one well known speech analysis means for another. In addition, these are all different variations for determining call length and therefore it would have been obvious to one of ordinary skill in the art to use any one of these speech analysis means for determining call length.

Response to Arguments

With respect to claim 19 and automated speech recognition, whether a speech recognition input device is used or a keyboard input device is used would have been obvious to one of ordinary skill as such would only entail one known input device for another.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

Art Unit: 2614

period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7484. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (571) 273-8300.

22Nov2009

/William J Deane/

Primary Examiner, Art Unit 2614